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In re:
USA COMMERCIAL MORTGAGE COMPANY,
 Debtor.

Case Nos.:
 BK-S-06-10725-LBR
 BK-S-06-10726-LBR
 BK-S-06-10727-LBR
 BK-S-06-10728-LBR
 BK-S-06-10729-LBR

In re:
USA CAPITAL REALTY ADVISORS, LLC,
 Debtor.

JOINTLY ADMINISTERED
 Chapter 11 Cases

In re:
USA CAPITAL DIVERSIFIED TRUST DEED FUND,
 LLC,

Judge Linda B. Riegle

Debtor.

In re:
USA CAPITAL FIRST TRUST DEED FUND, LLC,
 Debtor.

In re:
USA SECURITIES, LLC,

**THIRD SUPPLEMENTAL
 FILING IN SUPPORT OF
 APPLICATION TO
 COMPROMISE AND SETTLE
 CONTROVERSIES WITH
 BEADLE, MCBRIDE, EVANS &
 REEVES, LLP, ET AL.**

Debtor.

Affects:

- All Debtors
- USA Commercial Mortgage Company
- USA Capital Realty Advisors, LLC
- USA Capital Diversified Trust Deed Fund, LLC
- USA Capital First Trust Deed Fund, LLC
- USA Securities, LLC

USACM LIQUIDATING TRUST; and
USA CAPITAL DIVERSIFIED TRUST DEED FUND,
 LLC;

Plaintiffs,

v.

BEADLE, MCBRIDE, EVANS & REEVES, LLP,
 REEVES, EVANS, MCBRIDE & ZHANG, LLP, TG
 MCBRIDE CPA LTD., and T. GARTH MCBRIDE,

Defendants.

1 **THIRD SUPPLEMENTAL FILING IN SUPPORT OF APPLICATION**
2 **TO COMPROMISE AND SETTLE CONTROVERSIES WITH BEADLE,**
3 **MCBRIDE, EVANS & REEVES, LLP, ET AL.**

4 Geoffrey Berman (“Berman” or the “Trustee”), Trustee of the USACM Liquidating Trust
5 (the “USACM Trust”) and Michael Tucker (“Tucker” or the “Manager”), Manager of the USA
6 Capital Diversified Trust Deed Fund, LLC (“DTDF”) hereby file this third supplement in support
7 of their Application to Compromise and Settle Controversies with Beadle, McBride, Evans &
8 Reeves, LLP, et al (the “Motion”).

9 Consistent with this Court’s instructions during its December 8, 2008 hearing on the
10 Motion, the USACM Trust and DTDF hereby attach the following documents: (i) the proposed
11 findings of fact and conclusions of law (attached hereto as Exhibit “A”); and (ii) the proposed
12 order (attached hereto as Exhibit “B”).

13 Wherefore, premises considered, USACM Trust and DTDF respectfully requests this
14 Court approve the settlement between the USACM Trust, DTDF, and Beadle, McBride, Evans &
15 Reeves, LLP, et al., and enter the proposed findings of fact and conclusions of law attached as
16 Exhibit “A.”

17 DATED this 8th day of December, 2008.

18 *{Remainder of Page Left Intentionally Blank}*

1 Respectfully Submitted:

2 **DIAMOND McCARTHY LLP**

3 By: /s/ Eric D. Madden
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*Counsel for USACM Liquidating
Trust*

10 **CERTIFICATE OF SERVICE**

11 I hereby certify that, on December 9, 2008, a copy of the foregoing was served either
electronically or via first class mail to all existing and prospective defendants to any suits
12 brought or to be brought by the USACM Trust and/or DTDF.

13 _____
14 /s/ *P. Jason Collins*
15 P. Jason Collins

EXHIBIT A

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4
UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

5
6 In re:
7 USA COMMERCIAL MORTGAGE COMPANY,
8 Debtor.

Case Nos.:
BK-S-06-10725-LBR
BK-S-06-10726-LBR
BK-S-06-10727-LBR
BK-S-06-10728-LBR
BK-S-06-10729-LBR

9
10 In re:
11 USA CAPITAL REALTY ADVISORS, LLC,
12 Debtor.

JOINTLY ADMINISTERED
Chapter 11 Cases

13 In re:
14 USA CAPITAL DIVERSIFIED TRUST DEED FUND,
15 LLC,
16 Debtor.

Judge Linda B. Riegle

17 In re:
18 USA CAPITAL FIRST TRUST DEED FUND, LLC,
19 Debtor.

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW IN
SUPPORT OF ORDER
APPROVING SETTLEMENT
BEADLE, MCBRIDE, EVANS &
REEVES, LLP, ET AL.**

20 Affects:
21 All Debtors
22 USA Commercial Mortgage Company
23 USA Capital Realty Advisors, LLC
 USA Capital Diversified Trust Deed Fund, LLC
 USA Capital First Trust Deed Fund, LLC
 USA Securities, LLC

1 USACM LIQUIDATING TRUST; and
2 USA CAPITAL DIVERSIFIED TRUST DEED FUND,
LLC;

3 Plaintiffs,

4 v.

5 BEADLE, MCBRIDE, EVANS & REEVES, LLP,
REEVES, EVANS, MCBRIDE & ZHANG, LLP, TG
MCBRIDE CPA LTD., and T. GARTH MCBRIDE,

6 Defendants.

7 This Court, having considered the *Application to Compromise and Settle Controversies with*
8 *Beadle, McBride, Evans & Reeves, LLP, et al.* (the “Motion”) and the Declarations of Geoffrey L.
9 Berman and Michael Tucker in support thereof and the arguments of counsel made at the hearing on
10 the Motion to Compromise held December 8, 2008; and

11 This Court having considered the Pleading in Support of the Motion to Compromise and the
12 arguments of counsel, now therefore makes the following findings of fact and conclusions of law under
13 Federal Rule of Civil Procedure 52 and Federal Rules of Bankruptcy Procedure 7052 and 9019.

14 1. Notice of the Motion (“Notice”) was properly served on all creditors of the above-titled
15 estates.

16 2. The claims being settled are assets of the USACM Liquidating Trust (the “USACM
17 Trust”). Geoffrey L. Berman (“Berman” or the “Trustee”) currently serves as a trustee of the USACM
18 Liquidating Trust.

19 3. The claims being compromised also belong to USA Capital Diversified Trust Deed
20 Fund, LLC (“DTDF”). Michael Tucker (the “Manager”) is the manager of DTDF.

21 4. The beneficiaries of USACM Trust and DTDF are the creditors of USA Commercial
22 Mortgage Company (“USACM”) and the interest holders in DTDF.

1 5. The claims being compromised herein arise from professional services rendered by
2 Beadle, McBride, Evans & Reeves, LLP, Reeves, Evans, McBride & Zhang, LLP, TG McBride CPA
3 Ltd., and T. Garth McBride (collectively, "BMER") to DTDF and FTDF.

4 6. The USACM Trust and DTDF have investigated the merits of the claims against BMER
5 and have conducted such investigation as they deemed reasonable into the merits of the claim. In
6 addition, the USACM Trust and DTDF have inquired into the complexity of proving the potential
7 claims, the expense of prosecuting such claims, the duration of litigation or other means for
8 prosecuting the claims, and have evaluated the difficulties of collection and the assets available for
9 satisfying any potential judgment.

10 7. Based upon this evaluation, the Trustee and the Manager have recommended this
11 compromise as fair and equitable.

12 8. The Compromise is fair and equitable to the USACM Trust.

13 9. The Compromise is fair and equitable to DTDF.

14 10. At the present time, no claims for indemnification or contribution have been asserted,
15 although the USACM Trust and DTDF have commenced litigation against persons and entities that
16 may have such claims.

17 11. At the present time, no claims have been asserted by creditors of any of the above-titled
18 estates against BMER.

19 12. No USACM Trust beneficiary or DTDF interest holder has objected to this
20 compromise.

21 13. The amount paid in the settlement is fair and equitable in light of BMER's insurance
22 policy limits and BMER's financial condition.

23 14. There was no collusion, fraud, or tortious conduct in connection with the negotiation

1 and execution of the Settlement Agreement. No evidence was presented to this Court that there was
2 any collusion, fraud, or tortious conduct aimed to injure any non-settling defendants in connection with
3 the negotiation and execution of the Settlement Agreement.

4 15. The Settlement Agreement is in the paramount interest of the creditors.

5 **CONCLUSIONS OF LAW**

- 6 1. Notice has been given to all parties to the above-titled estates.
7 2. USACM Trust and DTDF have standing to assert the claims being settled and have
8 standing to bring this Motion.
9 3. In light of the complexity of the potential claims, the expense of litigating these claims,
10 the duration of such litigation, and the difficulties of collection in the event the estates are successful,
11 the settlement with BMER is fair and equitable and reasonable under the circumstances and therefore
12 is approved under Federal Rule of Bankruptcy Procedure 9019.

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EXHIBIT B

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5 **UNITED STATES BANKRUPTCY COURT**
6 **DISTRICT OF NEVADA**
7

8 In re:
9 USA COMMERCIAL MORTGAGE COMPANY,
10 Debtor.

Case Nos.:
BK-S-06-10725-LBR
BK-S-06-10726-LBR
BK-S-06-10727-LBR
BK-S-06-10728-LBR
BK-S-06-10729-LBR

11 In re:
12 USA CAPITAL REALTY ADVISORS, LLC,
13 Debtor.

JOINTLY ADMINISTERED
Chapter 11 Cases

14 In re:
15 USA CAPITAL DIVERSIFIED TRUST DEED FUND,
16 LLC,
17 Debtor.

Judge Linda B. Riegle

18 In re:
19 USA CAPITAL FIRST TRUST DEED FUND, LLC,
20 Debtor.

21 Affects:
22 All Debtors
23 USA Commercial Mortgage Company
24 USA Capital Realty Advisors, LLC
25 USA Capital Diversified Trust Deed Fund, LLC
26 USA Capital First Trust Deed Fund, LLC
27 USA Securities, LLC

**ORDER APPROVING
SETTLEMENT WITH
BEADLE, MCBRIDE, EVANS &
REEVES, LLP, ET AL.**

1 USACM LIQUIDATING TRUST; and
2 USA CAPITAL DIVERSIFIED TRUST DEED FUND,
LLC;

3 Plaintiffs,

4 v.

5 BEADLE, MCBRIDE, EVANS & REEVES, LLP,
REEVES, EVANS, MCBRIDE & ZHANG, LLP, TG
MCBRIE CPA LTD., and T. GARTH MCBRIE,

6 Defendants.

7 On December 8, 2008 this Court held a hearing on the *Application to Compromise and Settle*
8 *Controversies with Beadle, McBride, Evans & Reeves, LLP, et al.* (the “Motion”) filed by Geoffrey
9 Berman (“Berman” or the “Trustee”), Trustee of the USACM Liquidating Trust (the “USACM Trust”) and
10 Michael Tucker (“Tucker” or the “Manager”), Manager of the USA Capital Diversified Trust Deed Fund,
11 LLC (“DTDF”). The Motion requested: (1) an Order Approving Settlement, and (2) for an Order pursuant
12 to Nevada Revised Statute §17.245, et seq. barring claims against Beadle, McBride, Evans & Reeves, LLP
13 Reeves, Evans, McBride & Zhang, LLP, TG McBride CPA Ltd., and T. Garth McBride (collectively,
14 “BMER”) for indemnity and/or contribution. The relief requested is hereby GRANTED IN PART AND
15 DENIED IN PART.

16 Pursuant to the Motion and as set forth in the separate Findings of Fact and Conclusions of Law
17 entered pursuant to Bankruptcy Rules of Procedure 9014 and 7052, and Federal Rule of Civil Procedure 52,
18 this Court GRANTS the following relief:

19 1. The Settlement Agreement, Mutual Release, and Covenants dated July 18, 2008 between
20 the Trustee, the USACM Trust, the Manager, DTDF, and BMER (the “Settlement Agreement”) is
21 approved pursuant to Federal Rule of Bankruptcy Procedure 9019.

1 2. This Court shall retain jurisdiction to interpret and enforce the terms of the Settlement
2 Agreement and this Order Approving Settlement.

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4 All other relief requested, including the request for a bar order pursuant to NRS § 17.245, is
5 DENIED.

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